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Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Pitney Bowes, Inc.

File: B-236302

Date: December 4, 1989

DIGEST

Where solicitation provides for award to lowest priced technically acceptable offeror, agency properly awarded to low priced offeror whose proposal explicitly stated that the equipment offered satisfied all material technical requirements under the solicitation, and included required supporting literature which substantiated that the equipment was compliant. Neither commercial literature which is not directly applicable to the equipment in question, nor tests conducted by a competitor and which are self serving, establish that the agency's determination of technical acceptability was unreasonable.

DECISION

Pitney Bowes, Inc., protests the award of a contract to Friden Alcatel under request for proposals (RFP) No. N00600-89-R-0598, issued by the Department of the Navy for the supply and maintenance of mailing equipment for one year, with 2 option years. Pitney contends that the equipment offered by Friden does not comply with the RFP specifications.

We deny the protest.

The RFP was for a firm fixed price indefinite quantity contract for a minimum of 57 and a maximum of 100 mailing systems. Each system consists of: (1) a mailing machine; (2) a 70-pound electronic scale; and (3) an electronic journal printer designed to retain and produce a printed record of mailing transactions and mailing costs for each account. The RFP provides for award to the responsible offeror whose conforming offer will be most advantageous to the government, and further indicates that award to the lowest priced, technically acceptable, responsible offeror is anticipated. The RFP states that for an offer to be technically acceptable, the technical proposal must provide manufacturer's literature which shows that the equipment

offered meets the specifications set forth in Section C (Description/Specifications), and offer equipment of a type or model that has been in actual commercial or government use for at least 180 days as of the closing date of the solicitation.

Four offers were received by the closing date, all of which were included in the competitive range. Discussions were conducted, and all four best and final offers were determined by the technical evaluators to be compliant and technically acceptable. Award was made to Friden as the lowest priced technically acceptable offeror at a price of \$797,600. Pitney was the next low offeror at \$918,575.

With respect to the mailing machine, the specifications at issue require that it be capable of feeding, metering, sealing and stacking flats (large enveloped mail packages) of 5/16 inch thickness, and up to and including 9.5 inches by 12 inches in size, at a speed of 90 pieces per minute. The relevant electronic scale specifications require that the scale automatically compute the correct USPS postage and automatically set the meter, and be programmed to compute the correct postage for fourth-class, special fourth-class and international air and surface rates. The specifications for the electronic journal printer require that it be capable of portraying on a daily, weekly or bi-weekly basis, depending on the volume of mail, by account (minimum 99), the number of mailing and postage units for various activities, must be capable of accounting for United States Postal Service transactions, and be capable of producing "hard copy" printout of accumulated transactions to include total mail count and mailing cost for each account.

Pitney contends that the mailing machine Friden offered is not capable of automatically feeding 5/16 inch thick 9.5 by 12 inch envelopes at the rate of 90 pieces per minute, that the electronic scale Friden offered cannot automatically set the meter or compute special fourth-class postage, and that the printer Friden offered cannot automatically account for special fourth-class, international surface mail and special services such as certified or registered mail, and can account for only 900 individual pieces of mail or separate "transactions," but beyond that number it is capable of producing only "batch" account summaries.

The contracting agency is responsible for evaluating the information provided by an offeror and ascertaining whether it is sufficient to establish the technical acceptability of its offer, since the contracting agency must bear the burden of any difficulties incurred by reason of a defective

evaluation. Everpure, Inc., B-231732, Sept. 13, 1988, 88-2 CPD ¶ 235. The protester has the burden of showing that the evaluation was not reasonable or inconsistent with the evaluation scheme; mere disagreement with the agency's evaluation does not meet this burden. Morey Machinery, Inc., B-234124, May 10, 1989, 89-1 CPD ¶ 440.

As the Navy points out, Friden's technical proposal states that the mailing machine Friden offered will process 10.5 inch by 19.5 inch by 3/8 inch thick envelopes at a speed of up to 100 pieces per minute, that is, it specifically states that the mailing machine complies with the RFP processing requirements at issue. The manufacturer's literature submitted with Friden's proposal is also consistent with the requirements, and Friden's proposal does not take any exception to the requirements.

Similarly, concerning Friden's electronic scale, Friden's proposal does not take exception to the solicitation requirements, but states that the scale it offers will automatically compute the correct postage and set the meter to the corresponding amount, and further states that it will comply with the requirement that the scale be programmed to compute special fourth-class postage. The manufacturer's literature which Friden submitted with its proposal is consistent with these requirements.

In response to Pitney's allegations that the printer Friden offered will not produce an audit trail for each transaction, the Navy points out that Friden's proposal states that its printer does provide an audit trail of each transaction. The agency also correctly notes that the RFP requires only that the printer retain and account for "a substantial number" of transactions, without specifying a minimum number of transactions. The agency states that on the basis of its general needs as reflected in the RFP, it determined that retention and accounting for only 350 transactions was needed, and that the printer Friden offered satisfied this requirement. Pitney's allegation that Friden's printer can only retain and account for 900 transactions is therefore irrelevant. Accordingly, the Navy maintains that it reasonably and properly determined on the basis of Friden's proposal that the equipment Friden offered fully complied with the specifications and was technically acceptable.

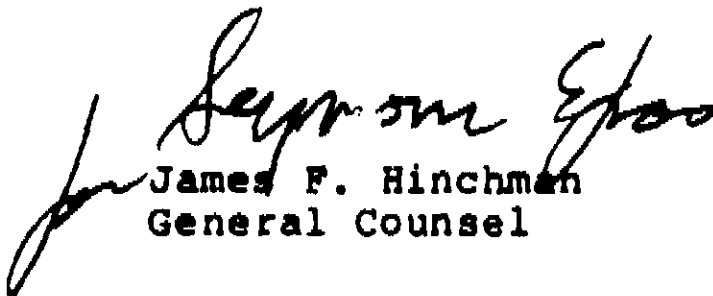
Pitney has not shown that the Navy's determination was unreasonable or inconsistent with the RFP. The main thrust of Pitney's argument is that since it closely monitors all of its competitors' equipment, it is thoroughly familiar with the capabilities of Friden's equipment, and knows that

the Friden equipment offered does not satisfy the RFP requirements. Pitney attempts to substantiate this argument by references to a test which Pitney conducted using Friden's mailing machine, and by reference to early Friden production literature regarding some of the equipment, and to Friden catalog material, none of which was submitted with Friden's proposal.

However, Pitney's test of Friden's equipment, which Friden asserts reflects machine operator error only, is clearly self serving and not conclusive. Further, the current literature submitted by Friden does not show that the equipment in question is noncompliant. An agency must evaluate a proposal only on the basis of the factors and requirements specified. Ingersoll-Rand, B-224899, Dec. 22, 1986, 86-2 CPD ¶ 701. Here, Friden offered to supply equipment which it specified was fully compliant, and this technical compliance was substantiated by the commercial literature which Friden included with its proposal. Accordingly, the agency reasonably determined the proposal to be technically acceptable. Morey Machinery, Inc., B-234124, supra.

Pitney's real protest seems to be that the equipment which it offers is technically superior to that offered by Friden. Hence, Pitney casts much of its argument in terms of allegations that Friden's equipment does not perform certain functions which Pitney's equipment does perform--but which are not required under the RFP. In essence, Pitney is arguing that the technical superiority of its equipment is worth the cost premium. However, the solicitation provides for award to the lowest priced technically acceptable offeror, and does not provide for a cost/technical tradeoff. If Pitney wished to protest the stated basis for award under the RFP, or the lack of inclusion in the RFP of a test requirement, it was required to do so prior to the closing date for receipt of proposals, since these allegations concern alleged apparent solicitation improprieties. 4 C.F.R. § 21.2(a)(1) (1989); National Survey Center, Corp., B-227767, Oct. 14, 1987, 87-2 CPD ¶ 36.

The protest is denied.


James F. Hinchman
General Counsel